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October 15, 2019

Andrew Harris Werbrock
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VIA EMAIL

Steven S. Biss
300 West Main Street, Suite 102
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Re: Devin G. Nunes

Dear Mr. Biss:

We write in response to your letter of October 11, 2019 to our client, Mr. Andrew Janz demanding that he take certain actions with respect to a parody Twitter account – an account that he does not control. Please direct all future correspondence regarding this matter to us.

Before addressing the merits of your letter, we will recount the relevant facts. According to its profile, the @DevinCow Twitter account was started in 2017 to draw attention to the fact that, while Representative Nunes identified himself as a “farmer” on the ballot and in campaign communications, he was not, in fact, a farmer. Rep. Nunes may have been a farmer earlier in his career. But, according to press accounts, his family moved its farm from California to Iowa in 2006,¹ and Rep. Nunes thereafter stopped reporting the farm on his public financial disclosure reports. As admitted by Rep. Nunes’s own attorneys, between 2007 and 2018, he owned an interest in two LLCs that owned wineries, but Representative Nunes did not operate or manage the grape-growing operations.² After his ballot designation was challenged in 2018, he apparently did acquire an interest in a farm; in August 2019 the *Fresno Bee* reported that “[f]or the first time in more than a decade” Rep. Devin Nunes reported that he

¹ Ryan Lizza, Devin Nunes’s Family Farm is Hiding a Politically Explosive Secret, *Esquire* (Sept. 30, 2018), available at <https://www.esquire.com/news-politics/a23471864/devin-nunes-family-farm-iowa-california/>.

² See *Buxman v. Padilla*, No. 34-2018-80002948 (Cal. Super. Ct., Sacramento Cty. 2018).

owned an interest in a farm in Tulare County, but that he received no income from that farm in 2018.³ Meanwhile, with your assistance, Rep. Nunes has unleashed a series of lawsuits against his critics, suing, among others, Twitter and the operator(s) of the @DevinCow handle for defamation. The merits of these lawsuits have been widely questioned; from all appearances, their sole purpose has been to silence Rep. Nunes's detractors and punish his political opponents.⁴

Your letter is another such attempt. It alleges, without basis, that our client is "coordinating, instigating, aiding and abetting" the @DevinCow account in "the malicious harassment, cyberbullying, stalking and defamation" of Rep. Nunes. You demand that our client "[i]mmediately cause the @DevinCow Twitter account to retract all harassing, disparaging, false and defamatory tweets and retweets of and concerning Mr. Nunes," "apologize for the harm done to Mr. Nunes and his family," and "[w]ithin one (1) business day of retraction and public apology, cause the termination of the @DevinCow Twitter account."

We reject these demands.

First, Mr. Janz is not in a position to compel the @DevinCow account to retract its tweets, to apologize, or to dissolve. Mr. Janz has publicly stated his opposition to Rep. Nunes's frivolous complaints against the @DevinCow account as an illegitimate attempt to chill First Amendment rights, and has solicited funds for any legal defense. But he does not control that account, or the content of its communications, and cannot cause it to issue a retraction or an apology, or to dissolve.

Second, even if he could cause the account to issue a retraction, he would not, as your letter does not state any valid basis for doing so. Your letter cites to several statutes prohibiting murder,

³ Kate Irby, After 'fake farmer' claim, Devin Nunes reports he owns small farm that earns no income, *The Fresno Bee* (Aug. 21, 2019), available at <https://www.fresnobee.com/news/local/article233995452.html>.

⁴ *See, e.g.*, Editorial: Devin Nunes needs an intervention to stop his unhealthy lawsuit habit, *L.A. Times* (Oct. 11, 2019). Rep. Nunes also sued his hometown newspaper and two of his constituents, a farmer and a librarian. The lawsuit against his constituents was dismissed within 33 days of filing. *Devin Nunes Campaign Committee v. Seeley*, No. VCU279766 (Cal. Super. Ct., Tulare Cty. 2019).

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kidnapping, and assault.⁵ Mr. Janz, as you know, has dedicated his career to fighting crime and would never condone this kind of illegal behavior by anybody, regardless of political persuasion. But your letter, while full of bombast, does not provide any credible account that the @DevinCow has engaged in any illegal behavior.

You also make vague allegations that the @DevinCow account defamed Rep. Nunes. But you do not point to any specific factual statement made by the account that you believe to be false, much less that Mr. Janz was involved in making any specific false statement. And, while we have not reviewed every communication issued from the account, the account's general punchline – that, for years and years, Rep. Nunes has campaigned on being a farmer, when he was not a farmer – is fully supported by the factual record.

Your letter does not overtly threaten legal action. But should you wish to sue Mr. Janz in yet another frivolous attempt to chill constitutionally protected political expression, you can serve it on our office. If you do so, we will avail ourselves of all available legal remedies, including section 425.16 of the California Code of Civil Procedure. You would be well-advised to review that section.

Sincerely,



Andrew Harris Werbrock
Counsel to Andrew Janz

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⁵ See 18 U.S.C. § 111 (prohibiting any person from “forcibly assault[ing] or intimidat[ing]” an officer or employee of the United States); *id.* § 351 (prohibiting murdering, kidnapping, or assaulting a member of Congress); Cal. Pen. Code § 653.2 (prohibiting electronic communications intended to “put another person in reasonable fear for his or her safety”); *id.* § 646.9 (prohibiting “malicious harass[ment]” accompanied by “a credible threat with the intent to place that person in reasonable fear for his or her safety.”).